

PCB JU 06-03

Vested Governmental Powers

2006

## House Joint Resolution

A joint resolution proposing amendments to Section 3 of Article II, Section 1 of Article III, and Section 12 of Article X, and the creation of Section 26 of Article XII, of the State Constitution; revising provisions relating to vested governmental powers; providing that a person belonging to one branch of state government cannot impose, apply, or enforce a limitation on a power that is part of a function of any of the other branches of government unless imposing, applying or enforcing the limitation is expressly provided in the state constitution; providing that nothing in the state constitution is to be interpreted as limiting the power vested in the legislature except as expressly limited in the state constitution; providing rules of construction to be used when interpreting the extent of vested governmental powers.

Be It Resolved by the Legislature of the State of Florida:

That the following amendments to Section 3 of Article II, Section 1 of Article III, and Section 12 of Article X, and the following creation of Section 26 of Article XII, of the State Constitution is agreed to and shall be submitted to the electors of this state for approval or rejection at the next general election or at an earlier special election specifically authorized by law for that purpose:

## ARTICLE II

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## GENERAL PROVISIONS

## SECTION 3. Branches of government.—

The powers of the state government shall be divided into legislative, executive and judicial branches. No person belonging to one branch shall exercise any powers appertaining to either of the other branches unless expressly provided herein. No person belonging to one branch shall impose, apply, or enforce a limitation on the power appertaining to any of the other branches, unless the limitation is expressly provided herein.

## ARTICLE III

## LEGISLATURE

SECTION 1. Composition; power.—

The legislative power of the state shall be vested in a legislature of the State of Florida, consisting of a senate composed of one senator elected from each senatorial district and a house of representatives composed of one member elected from each representative district. Nothing in this constitution shall be interpreted to limit the power vested in the legislature, except as expressly limited herein.

## ARTICLE X

## MISCELLANEOUS

## SECTION 12. Rules of construction.—

Unless qualified in the text the following rules of construction shall apply to this constitution.

- (a) "Herein" refers to the entire constitution.
- (b) The singular includes the plural.
- (c) The masculine includes the feminine.

(d) "Vote of the electors" means the vote of the majority of those voting on the matter in an election, general or special, in which those participating are limited to the electors of the governmental unit referred to in the text.

(e) Vote or other action of a legislative house or other governmental body means the vote or action of a majority or other specified percentage of those members voting on the matter. "Of the membership" means "of all members thereof."

(f) The terms "judicial office," "justices" and "judges" shall not include judges of courts established solely for the trial of violations of ordinances.

(g) "Special law" means a special or local law.

(h) Titles and subtitles shall not be used in construction.

(i) In interpreting the extent of vested governmental powers, the expression of one thing does not imply the exclusion of another. No such implication restricts any plenary or other vested power. The express inclusion of one or more mandatory or authorized means or actions does not exclude other means or actions not expressly prohibited.

The specification of a manner of fulfilling a state obligation shall not be construed as limiting any power to adopt alternatives in addition thereto, if otherwise within the powers vested or granted herein, unless the limitation is expressly provided herein.

## ARTICLE XII

### SCHEDULE

SECTION 26. Vested governmental powers; effective date.—The amendments to Section 3 of Article II, Section 1 of Article III,

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88   and Section 12 of Article X, relating to vested governmental  
89   powers, shall apply retroactively.

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91   BE IT FURTHER RESOLVED that the following statement be  
92   placed on the ballot:

93                    CONSTITUTIONAL AMENDMENTS

94                    ARTICLE II, SECTION 3

95                    ARTICLE III, SECTION 1

96                    ARTICLE X, SECTION 12

97                    ARTICLE XII, SECTION 26

98  
99           VESTED GOVERNMENTAL POWERS.--Proposing a revision amending  
100   sections of the State Constitution to delineate and distinguish  
101   the vested powers of the branches of Florida's state government.  
102   The revision reverses some judicial precedents that have imposed  
103   limitations on governmental powers that have never been expressly  
104   provided in the State Constitution. The revision provides that a  
105   person belonging to one branch of state government cannot impose,  
106   apply, or enforce a limitation on a power that is part of a  
107   function of any of the other branches of government unless  
108   imposing, applying or enforcing the limitation is expressly  
109   provided in the State Constitution. The proposed revision further  
110   provides that nothing in the State Constitution is to be  
111   interpreted as limiting the power vested in the legislature  
112   except as expressly limited in the State Constitution. The  
113   proposed revision further provides that in interpreting the  
114   extent of vested governmental powers, the expression of one thing  
115   in the State Constitution does not imply the exclusion of another  
116   and that such an implication cannot restrict any plenary or other

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117 | vested governmental power; that the express inclusion in the  
118 | State Constitution of one or more mandatory or authorized means  
119 | or actions does not exclude other means or actions not expressly  
120 | prohibited; that specification of a manner of fulfilling a state  
121 | obligation shall not be construed as limiting any power to adopt  
122 | alternatives in addition thereto, if otherwise within the powers  
123 | vested or granted in the State Constitution, unless the  
124 | limitation is expressly provided therein. The revision provides  
125 | for retroactive applicability.  
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